

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 07-497V

October 17, 2008

Not to be published

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HOWARD McLAUGHLIN and DOMINIANA \*  
McLAUGHLIN, parents of AARON AGRIPINO \*  
G. McLAUGHLIN, \*

Petitioners, \*

v. \* Motion to dismiss granted

SECRETARY OF THE DEPARTMENT OF \*  
HEALTH AND HUMAN SERVICES, \*

Respondent. \*

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Howard McLaughlin and Dominiana McLaughlin, Fontana, CA, for petitioners pro se.  
Alexis B. Babcock, Washington, DC, for respondent

## DECISION<sup>1</sup>

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, petitioner has 14 days to identify and move to delete such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access.

On June 27, 2007, petitioners filed a petition pro se under the National Childhood Vaccine Injury Act, 42 U.S.C. §300aa-10 et seq. (hereinafter, the Vaccine Act), alleging that various vaccinations caused autism in their son Aaron Agripino G. McLaughlin.

On January 29, 2008, respondent filed a Motion to Dismiss the petition on the ground that Aaron's onset of autism was more than 36 months before petitioners filed their petition.

On March 5, 2008, petitioners filed a Motion for the Federal Claims Court to Deny Health and Human Services Motion to Dismiss, stating that they also were alleging that hepatitis B vaccine significantly aggravated Aaron's pre-existing autism spectrum disorder.

On April 3, 2008, respondent filed a Reply to Petitioners' "Motion for the Federal Claims Court to Deny Health and Human Services Motion to Dismiss" and Renewed Motion to Dismiss.

On April 25, 2008, petitioners filed a Reply to Respondent's Renewed Motion to Dismiss and Motion to Deny Respondent's Renewed Motion to Dismiss.

On October 9, 2008, petitioners filed a Notice of Dismissal which the undersigned interprets as a motion for voluntary dismissal without prejudice.

The undersigned grants petitioners' motion under 42 U.S.C. §300aa-21(b). This case is dismissed without prejudice. The clerk of the court is ordered to enter judgment herewith.

Within 90 days after the entry of judgment on this decision granting their motion for dismissal, petitioners must file with this court an election to file a civil action for damages or they will be barred from filing civilly in state or federal court. 42 U.S.C. §300aa-21(a)(2).

**IT IS SO ORDERED.**

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DATE

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Laura D. Millman  
Special Master